

## **EXHIBIT C**

ORIGINAL

1

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MARYLAND

3  
4  
5 XEROX CORPORATION, :

6 Plaintiff :

7 Vs. : CIVIL ACTION NO.

8 PHOENIX COLOR CORPORATION: L-02-CV-1734

9 and TECHNIGRAPHIX, INC., :

10 Defendants :

11 -----

12  
13 Deposition of BRUCE M. NUSSBAUM, taken  
14 on Tuesday, February 25, 2003, at 1:07 p.m., at  
15 the offices of Piper Rudnick, 6225 Smith Avenue,  
16 Baltimore, Maryland, before Ilana E. Johnston,  
17 R.P.R. and Notary Public.

18 -----

19  
20 Reported by:

21 Ilana E. Johnston, R.P.R.

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1        what you would call a flat rate program. I don't  
2        recall the dollar amount, but whatever it was,  
3        and this is basically any time they could get it,  
4        this is what they were after.

5                They wanted to know what their monthly  
6        nut was, so they would just sell, you know, this  
7        is what I got to recoup during the monthly  
8        period. Everything else is profit. Very easy to  
9        count.

10              Q. When is the first -- what's the earliest  
11        date that you can recall servicing the  
12        TechniGraphix account?

13              A. I don't know. Maybe '97. It was just  
14        about for my whole, my whole second stint at  
15        Xerox. You know, it was -- I think I got  
16        TechniGraphix when I -- I came back to Xerox in  
17        May of '96, and at the end of that I think I got  
18        a new assignment, and that was in the  
19        assignment. They added some accounts.

20              Q. Between the two periods that you were  
21        employed by Xerox where did you work?

1 A. Yeah.

2 Q. How often would you visit TechniGraphix  
3 as part of your job?

4 A. As much as needed. And what I mean, I'm  
5 not trying to be smart or anything, but what I  
6 mean by that is, you know, certainly you keep in  
7 touch with your customers, but there are times  
8 when you're trying to accomplish -- get a  
9 transaction to become an order and place another  
10 piece of equipment.

11 And there are times when you're just  
12 doing customer service. But usually probably two  
13 or three times a month and more if I'm actively  
14 engaged in some sort of equipment placement.

15 Q. Who at TechniGraphix did you generally  
16 meet with? I'm talking about in the 1997, 1998  
17 period when you would visit them.

18 A. This is pre-Phoenix; is that what you're  
19 talking about?

20 Q. Yes.

21 A. Pre-Phoenix Jack Tiner is the one I did

1 all the business with, but, you know, if Jack  
2 wasn't there I would go and, you know, just meet  
3 with some of the operators and the people that  
4 were running the back room, but they didn't have  
5 the authority to do any business. Jack Tiner was  
6 the only person who had that authority.

7 Q. Okay. What was your understanding of  
8 Jack Tiner's position with the company? And by  
9 company I mean TechniGraphix.

10 A. Jack ran the business, owned the  
11 business with his wife Debbie.

12 Q. Did you know as to whether he was  
13 president of TechniGraphix?

14 A. It might have been a -- there might have  
15 been a technicality that Debbie was the  
16 president, but it wasn't important to me because  
17 Debbie wasn't going to authorize any purchases  
18 unless Jack had made the, you know, blessed the  
19 deal.

20 And I don't -- to my recollection, the  
21 only time that she would ever have even offered a

1           A. It looks like the same signature, Donald  
2 Tyler.

3           Q. And do you know whose handwriting is  
4 throughout the document?

5           A. It appears to be mine.

6           Q. Including putting in the title  
7 vice-president Phoenix Color, VP Phoenix Color?

8           A. Yep.

9           Q. Okay. And do you have any recollection  
10 of making this modification in December of 1999?  
11 Do you recall the circumstances surrounding it?

12           A. No, but when I look at it, what comes to  
13 mind is he was adding this component right, here  
14 this listing that designated a component.

15           MR. FRIEDMAN: Read it.

16           A. The N gate, the A gate, the PH hub, the  
17 NSP kit 3, some type of kit. I don't know. And  
18 that necessitated a contract  
19 replacement/modification. This was not a new  
20 6180.

21           Q. So as far as you're concerned, the only

1        thing that this contract did to the previous  
2        contract was add these new components?

3            A.    And change the term, I mean, you know,  
4        change the payment and the term.

5            Q.    Okay.    So it added a component, right,  
6        and it lowered the term from 60 months to 59  
7        months?    Did it do anything else to your  
8        understanding when you filled out this document?

9            A.    As I look at it, that's what it appears  
10       to be.

11           Q.    Okay.    Let's go to the next page,  
12       2507.    Do you recognize the signature on the  
13       lower right corner?

14           A.    Yes, sir.

15           Q.    Whose signature is that?

16           A.    Same, Donald Tyler.

17           Q.    Do you recognize the handwriting  
18       throughout the document?

19           A.    Yes, I do.

20           Q.    Whose handwriting is that?

21           A.    Mine.

1 Q. Okay. Including the title VP Phoenix  
2 Color, right?

3 A. Yes.

4 Q. Including the customer legal name  
5 Phoenix Color Corp.; is that correct?

6 A. Absolutely.

7 Q. Okay. And what is your understanding of  
8 what this document did with respect to the  
9 contract that it was modifying?

10 A. According to the document, it says it's  
11 a replacement/modification of a prior Xerox  
12 agreement. I checked it. And the prior Xerox  
13 agreement that it is replacing or modifying is  
14 this number. That's what I understand.

15 Q. What is it doing that the previous  
16 contract did not do?

17 A. You're adding the stacker. I mean, this  
18 is the -- this is what he was doing. He was  
19 adding a component.

20 Q. Adding a component and lowering the term  
21 from 60 months to 59.



1           A. It might not have been lowering it. It  
2 starts out a 60-month contract.

3           Q. Okay.

4           A. It might have been 59 left. He might  
5 have said hey, you know, I wanted to get the  
6 stackers with those, why didn't you do that.  
7 Well, you didn't tell me when we first did it. I  
8 want the stackers. The paperwork is necessary.

9           Q. Did this contract do anything other than  
10 change the terms you just talked about?

11          A. I don't believe so.

12          Q. Okay. Next page, 2508. Whose signature  
13 in the lower right, if you can identify it?

14          A. It is the same signature of Donald  
15 Tyler.

16          Q. And whose handwriting is throughout that  
17 document?

18          A. The lower right-hand; is that what you  
19 meant?

20          Q. Yes. And whose handwriting is  
21 throughout the document?

1           A.   It appears to be mine.

2           Q.   Okay.   This document is dated 12/10/99;  
3           is that right?

4           A.   Yep.   It looks like they're all done the  
5           same day.

6           Q.   Okay.   What was -- what changed with  
7           respect to this -- this is a contract  
8           modification, and what was the new term with  
9           respect to this contract?

10          A.   This, if I'm looking at this and I have  
11          to make an opinion, all these contracts, and  
12          they're mixed 6100s, and they're all on the same  
13          day, usually you're lengthening what's left and  
14          you're giving one group amount of months left on  
15          the contract instead of some that are coming up  
16          in 40 months and 30 months and 60 months.

17          Q.   Well, let's go through from 2509, and  
18          I'll just ask you to look at 2510, 11, 12, 13,  
19          14, 15, 16, 17, all the way up to --

20          A.   Are they all done the same day?

21          Q.   -- all the way up to 19.

1 A. Are they all done on the same day?

2 Q. Yes.

3 A. They are all different equipment. That  
4 tells me usually, when they're done on the same  
5 day and it's all the equipment, that you're  
6 trying to get a lower payment. This may have  
7 been a genesis from one of the Ed Lieberman  
8 meetings. I don't recall.

9 Q. And do you remember any discussions with  
10 anyone at TechniGraphix or Phoenix Color about  
11 changing the name of the contracting party with  
12 respect to these contracts?

13 A. You mean to Phoenix Color?

14 Q. Changing the name from TechniGraphix to  
15 Phoenix Color.

16 A. No.

17 Q. You recall no discussions with anyone  
18 from TechniGraphix or Phoenix Color about that.

19 A. No.

20 Q. Okay. Let's go to the next page. Oh,  
21 let me just ask you if you can look through from

1 2509 to 2519 and take all the time you need and  
2 just tell me whether with respect to --

3 A. Look, there's no date on this one. I  
4 really did a haphazard job.

5 Q. With the exception of Don Tyler's  
6 signature in the lower right corner, to your  
7 knowledge, does anyone else's handwriting appear  
8 on any of these pages?

9 A. It appears that the only handwritings  
10 that appear on these documents are mine and Don  
11 Tyler's signature.

12 Q. Okay.

13 A. What am I going to, 19?

14 Q. To 19.

15 A. Yeah, this looks like one massive  
16 contract extension or something like that. It's  
17 amazing.

18 Q. Okay. Let's go to --

19 A. I don't remember any of this.

20 Q. Let's go to 2520. These contracts 2520  
21 to 2533 anyway are typed.

1           A. Right. They were generated by that  
2           system.

3           Q. Okay. Do you recall presenting these to  
4           Mr. Tyler, which would have been, I guess, three  
5           days after Christmas in 1999?

6           A. Do I recall? No.

7           Q. Now, if an agreement is presented by  
8           you, does that mean that you necessarily were the  
9           person who brought that to him or would you have  
10          been involved with that process?

11          A. I was involved.

12          Q. Okay. Who else would have come with you  
13          at any given time to present one of these  
14          contracts or agreements?

15          A. It could have been an analyst. It could  
16          have been -- I mean, generally speaking, it was  
17          just me. Jonathan wasn't there hardly at all.

18          Q. When you say Jonathan, do you mean  
19          Jonathan Frances?

20          A. Yeah. He helped me with proposals and  
21          stuff and working numbers, but generally me.

1 Q. Whose handwriting is that on the date?  
2 Is that your handwriting?

3 A. Which document are we on?

4 Q. 2520.

5 A. 2520. Where it says date, right  
6 there?

7 Q. Uh-huh.

8 A. That's mine.

9 Q. That's yours. So you dated all these  
10 documents?

11 A. It looks that way.

12 Q. Some of the other ones actually have  
13 more handwriting on them. Any of the documents  
14 from 2520 include handwriting other than yours  
15 with the exception of Don Tyler's signature on  
16 the lower right corner?

17 A. 2520 on to what?

18 Q. To 2533.

19 A. Oh, man.

20 Q. Take your time.

21 A. I am. 22 has none of my handwriting

1       except for the date.

2           Q.   Well, hold on a second.  22 is typed.

3           A.   Except for the date I said.

4           Q.   Okay.  Okay.

5           A.   If you're going to try to hang me,  
6       listen to the whole thing here.  23 appears to be  
7       my handwriting except for Donald Tyler.

8           Q.   His signature.

9           A.   Yes.

10          Q.   Okay.

11          A.   See, the system that typed it, once we  
12       understood how it worked, we could generate the  
13       order and it became less tedious to fill the  
14       whole thing out.

15          Q.   Right.

16          A.   So once we got the hang of it, all we  
17       had to do was get the authorization signature.

18          Q.   Do you recall ever explaining to anyone  
19       at Phoenix Color or TechniGraphix that you were  
20       changing the party of the contract from  
21       TechniGraphix to Phoenix Color?